

## § 10.104

## 20 CFR Ch. I (4–1–10 Edition)

part covered under the schedule established by 5 U.S.C. 8107. If Form CA-7 has already been filed to claim disability compensation, an employee may file a claim for such impairment by sending a letter to OWCP which specifies the nature of the benefit claimed.

### § 10.104 How and when is a claim for recurrence filed?

(a) A recurrence should be reported on Form CA-2a if it causes the employee to lose time from work and incur a wage loss, or if the employee experiences a renewed need for treatment after previously being released from care. However, a notice of recurrence should not be filed when a new injury, new occupational disease, or new event contributing to an already-existing occupational disease has occurred. In these instances, the employee should file Form CA-1 or CA-2.

(b) The employee has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.

(1) The employee must include a detailed factual statement as described on Form CA-2a. The employer may submit comments concerning the employee's statement.

(2) The employee should arrange for the submittal of a detailed medical report from the attending physician as described on Form CA-2a. The employee should also submit, or arrange for the submittal of, similar medical reports for any examination and/or treatment received after returning to work following the original injury.

### § 10.105 How and when is a notice of death and claim for benefits filed?

(a) If an employee dies from a work-related traumatic injury or an occupational disease, any survivor may file a claim for death benefits using Form CA-5 or CA-5b, which may be obtained from the employer or from the Internet at [www.dol.gov/dol/esa/owcp.htm](http://www.dol.gov/dol/esa/owcp.htm). The survivor must provide this notice in writing and forward it to the employer. Another person, including the employer, may do so on the survivor's behalf. The survivor may also submit the completed Form CA-5 or CA-5b di-

rectly to OWCP. The survivor shall disclose the SSNs of all survivors on whose behalf claim for benefits is made in addition to the SSN of the deceased employee. The survivor may withdraw his or her claim (but not the notice of death) by so requesting in writing to OWCP at any time before OWCP determines eligibility for benefits.

(b) For deaths that occur on or after September 7, 1974, a notice of death must be filed within three years of the death. The form contains the necessary words of claim. The requirements for timely filing are described in § 10.100(b)(1) through (3).

(c) However, in cases of death due to latent disability, the time for filing the claim does not begin to run until the survivor is aware, or reasonably should have been aware, of the causal relationship between the death and the employment (see 5 U.S.C. 8122(b)).

(d) The filing of a notice of injury or occupational disease will satisfy the time requirements for a death claim based on the same injury or occupational disease. If an injured employee or someone acting on the employee's behalf does not file a claim before the employee's death, the right to claim compensation for disability other than medical expenses ceases and does not survive.

(e) A survivor must be alive to receive any payment; there is no vested right to such payment. A report as described in § 10.414 of this part must be filed once each year to support continuing payments of compensation.

## NOTICES AND CLAIMS FOR INJURY, DISEASE, AND DEATH—EMPLOYER'S ACTIONS

### § 10.110 What should the employer do when an employee files a notice of traumatic injury or occupational disease?

(a) The employer shall complete the agency portion of Form CA-1 (for traumatic injury) or CA-2 (for occupational disease) no more than 10 working days after receipt of notice from the employee. The employer shall also complete the Receipt of Notice and give it to the employee, along with copies of both sides of Form CA-1 or Form CA-2.

(b) The employer must complete and transmit the form to OWCP within 10

working days after receipt of notice from the employee if the injury or disease will likely result in:

- (1) A medical charge against OWCP;
- (2) Disability for work beyond the day or shift of injury;
- (3) The need for more than two appointments for medical examination and/or treatment on separate days, leading to time loss from work;
- (4) Future disability;
- (5) Permanent impairment; or
- (6) Continuation of pay pursuant to 5 U.S.C. 8118.

(c) The employer should not wait for submittal of supporting evidence before sending the form to OWCP.

(d) If none of the conditions in paragraph (b) of this section applies, the Form CA-1 or CA-2 shall be retained as a permanent record in the Employee Medical Folder in accordance with the guidelines established by the Office of Personnel Management.

**§ 10.111 What should the employer do when an employee files an initial claim for compensation due to disability or permanent impairment?**

(a) When an employee is disabled by a work-related injury and loses pay for more than three calendar days, or has a permanent impairment or serious disfigurement as described in 5 U.S.C. 8107, the employer shall furnish the employee with Form CA-7 for the purpose of claiming compensation.

(b) If the employee is receiving continuation of pay (COP), the employer should give Form CA-7 to the employee by the 30th day of the COP period and submit the form to OWCP by the 40th day of the COP period. If the employee has not returned the form to the employer by the 40th day of the COP period, the employer should ask him or her to submit it as soon as possible.

(c) Upon receipt of Form CA-7 from the employee, or someone acting on his or her behalf, the employer shall complete the appropriate portions of the form. As soon as possible, but no more than five working days after receipt from the employee, the employer shall forward the completed Form CA-7 and any accompanying medical report to OWCP.

**§ 10.112 What should the employer do when an employee files a claim for continuing compensation due to disability?**

(a) If the employee continues in a leave-without-pay status due to a work-related injury after the period of compensation initially claimed on Form CA-7, the employer shall furnish the employee with another Form CA-7 for the purpose of claiming continuing compensation.

(b) Upon receipt of Form CA-7 from the employee, or someone acting on his or her behalf, the employer shall complete the appropriate portions of the form. As soon as possible, but no more than five working days after receipt from the employee, the employer shall forward the completed Form CA-7 and any accompanying medical report to OWCP.

[63 FR 65306, Nov. 25, 1998; 63 FR 71202, Dec. 23, 1998]

**§ 10.113 What should the employer do when an employee dies from a work-related injury or disease?**

(a) The employer shall immediately report a death due to a work-related traumatic injury or occupational disease to OWCP by telephone, telegram, or facsimile (fax). No more than 10 working days after notification of the death, the employer shall complete and send Form CA-6 to OWCP.

(b) When possible, the employer shall furnish a Form CA-5 or CA-5b to all persons likely to be entitled to compensation for death of an employee. The employer should also supply information about completing and filing the form.

(c) The employer shall promptly transmit Form CA-5 or CA-5b to OWCP. The employer shall also promptly transmit to OWCP any other claim or paper submitted which appears to claim compensation on account of death.

**EVIDENCE AND BURDEN OF PROOF**

**§ 10.115 What evidence is needed to establish a claim?**

Forms CA-1, CA-2, CA-5 and CA-5b describe the basic evidence required. OWCP may send any request for additional evidence to the claimant and to